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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,704	10/05/2001	Mickey W. Calvert	53394.000530	3083
7590 03/19/2004			EXAMINER	
Christopher C. Campbell, Esq. Hunton & Williams Suite 1200 1900 K Street, NW Washington, DC 20006-1109			CHAN, SING P	
			ART UNIT	PAPER NUMBER
			1734	
DATE MAILED: 03/19/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/970,704

Applicant(s)

CALVERT, MICKEY W.

Examiner

Sing P Chan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-26, 28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) 27 and 30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26, 28 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Claims 27 and 30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper filed on December 29, 2003.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the claim recites the applicator "heads are fixed relative to one another at predetermined angles." The claim also recites one or more applicator heads travel at a first speed and second. It is unclear how one or more applicator heads can travel at a predetermined speed without the others. For the purpose of examination, "plurality of applicator heads" will be assumed.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-26 and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beaudoin et al (U.S. 4,925,520) in view of McNichols et al (U.S. 6,149,755).

Regarding claims 1 and 16, Beaudoin et al discloses an apparatus for transferring an elastic waistband to a moving web. The apparatus includes a transfer device with fixed length arms and heads fixed relative to one another at predetermined angles as measure relative to the axis to hold a garment parts such as an elastic waistband, and a motor to rotate the device. (Col 5, lines 46-68) Beaudoin et al does not disclose a control device to control the rotational speed of the motor wherein the control device operate the motor to control the speed of the applicator heads to travel at a first speed at a first location to pick up garment parts and a second speed at a second location to deposit the garment parts to the moving web and the angle about the axis of the first location and second location is not equal to the predetermined angles between the heads. However, providing a control device to control the rotational speed of the motor wherein the control device operate the motor to control the speed of the applicator heads to travel at a first speed at a first location to pick up garment parts and a second speed at a second location to deposit the garment parts to the moving web and the angle about the axis of the first location and the angle about the axis of the first location second location is not equal to the predetermined angles between the heads are well known and conventional as shown for example by McNichols et al. McNichols et al discloses an apparatus for applying part for articles such as diaper and napkins. The apparatus includes an applicator (Col 10, lines 31-57), a motor to rotate the

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applicator, a controller to control the rotational speed of the motor (Col 10, lines 59-61 and Col 11, lines 56-67), wherein the applicator pickup an article part at the first position at the first speed and deposition the part onto a moving web, i.e. a target, at the second position at a second speed. (Col 16, lines 4-23) The angle about the axis of the first location second location is not equal to the predetermined angles between the applicator heads. (Figure 19)

It would have been obvious to one skilled in the art at the time the invention was made to provide a control device to control the rotational speed of the motor wherein the control device operate the motor to control the speed of the applicator heads to travel at a first speed at a first location to pick up garment parts and a second speed at a second location to deposit the garment parts to the moving web and the angle about the axis of the first location as disclosed by McNichols et al in the apparatus of Beaudoin et al to provide a means for precise registration and placement of the parts onto the moving web easily and accurately.

Regarding claims 2-5, Beaudoin et al discloses the transfer device includes grippers, which include vacuum and needles. (Col 6, lines 10-22)

Regarding claims 6, 7, 28, and 29, Beaudoin et al as modified above is silent as to the motor is an AC servo motor and the control device is an AC servo drive. However, providing an AC servo motor and an AC servo drive are well known and conventional as shown for example by McNichols et al. McNichols et al discloses the applicator is driven with servomotor, programmable controller, and gear box, which is considered to be an AC servomotor and drive. (Col 4, lines 15-24)

It would have been obvious to one skilled in the art at the time the invention was made to provide AC servo motor and an AC servo drive as disclosed by McNichols et al in the apparatus of Beaudoin et al to provide a means to easily control the precise registration and placement of the parts onto the moving web accurately.

Regarding claims 8-14, Beaudoin et al discloses the applicator for applying waistband for article such as diapers (Col 3, lines 43-69) and is considered capable of pick up, convey, and deposit the parts such as absorbent core, tissue layer, garment chassis, and grip tabs onto a moving web.

Regarding claims 15-21, Beaudoin et al as modified above is silent as to the applicator is operated with the first speed slower than the second speed. However, Beaudoin et al discloses vacuum drum is operating at a slower speed than the transfer device and the web and the transfer device has the same speed. McNichols et al discloses the applicator is operated with the first speed slower than the second speed (Col 12, lines 20-32) and is considered to be capable of being operated at the recited speeds.

It would have been obvious to one skilled in the art at the time invention was made to operate the applicator with the applicator operated with the first speed slower than the second speed as disclosed by McNichols et al in the apparatus of Beaudoin et al to allow the transfer device to easily and accurately pickup and deposit the garment parts.

Regarding claim 22, Beaudoin et al as modified above is silent as to the applicator is operated with first speed faster than the second speed. McNichols et al

discloses the applicator can be operated with first speed is faster than the second speed. (Col 12, lines 33-42)

It would have been obvious to one skilled in the art at the time the invention was made to operated the applicator with first speed faster than the second speed as disclosed by McNichols et al in the apparatus of Beaudoin et al to allow the transfer device to easily and accurately pickup and deposit the garment parts.

Regarding claim 23, Beaudoin et al as modified above is silent as to a cutting device on the applicator. McNichols et al discloses a cutting anvil bar on the applicator. (Col 11, lines 40-42 and Figures 1 and 19)

It would have been obvious to one skilled in the art at the time the invention was made to provide a cutting anvil bar on the applicator as disclosed by McNichols et al in the apparatus of Beaudoin et al to allow the transfer device to reduce the number of parts on the apparatus to reduce the cost.

Regarding claims 24 and 25, Beaudoin et al as modified above is silent as to an ultrasonic bonding device on the applicator. McNichols et al discloses ultrasonic bonding anvil shoes on the applicator for bonding the parts to the web. (Col 5, lines 24-34 and Col 10, lines 44-57)

It would have been obvious to one skilled in the art at the time the invention was made to provide a ultrasonic anvil bar on the applicator as disclosed by McNichols et al in the apparatus of Beaudoin et al to allow the transfer device to bond the part to the web quickly and easily without the need of additional adhesive applicator.

***Response to Arguments***

6. Applicant's arguments, see Pages 7-10, filed December 29, 2003, with respect to the rejection(s) of claim(s) 1-26 and 28-29 under 35 U.S.C. § 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly found prior art reference, which provided the teaching of using a transfer device with applicator arms and heads with the material and web are moving at two different speeds.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sing P Chan whose telephone number is 571-272-1225. The examiner can normally be reached on Monday-Friday 7:30AM-11:15AM and 12:15PM-4:00PM.

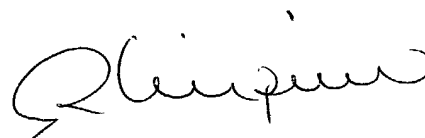
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard D Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
spc



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